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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,862	12/20/2001	Pat Yananton	GC-463	1298

7590

07/16/2004

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EXAMINER

SHAW, ELIZABETH ANNE

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/033,862

Applicant(s)

YANANTON, PAT

Examiner

Elizabeth A. Shaw

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) 7-19, 21-28, 32, 34, 35 and 49-69 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36-48 is/are allowed.
- 6) ☒ Claim(s) 1-6, 20, 29-31 and 33 is/are rejected.
- 7) ☒ Claim(s)        is/are objected to.
- 8) ☐ Claim(s)        are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on        is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No.       .
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 6, 20, 29-31 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Brazzell (3,752,121). Brazzell shows a particle entrapment pad 30 having an impervious bottom layer 20 and a high loft non-woven non-absorbent layer 31. A cling enhancing substance such as oil maybe used for holding particles in place and a deodorant 13 is provided to treat to top layer 31 against odors. It is considered that the pad of Brazzell is capable of or adapted to be used in a variety of places and with various uses such as in workshops, offices, refrigerators and near pet food dishes or litter boxes.

Note that statements of intended use or field of use, "adapted to" clauses are essentially method limitations or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See *In re Pearson*, 181 USPQ 641; *In re Yanush*, 177 USPQ 705; *In re Finsterwalder*, 168 USPQ 530; *In re Casey*, 512 USPQ 235; *In re Otto*, 136 USPQ 458; *Ex parte Masham*, 2 USPQ 2<sup>nd</sup> 1647.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brazzell in view of Kiebke (5,126,980). Brazzell does not disclose the use of baking soda or odor-counteractive agent. Kiebke shows a litter composition containing baking soda or sodium bicarbonate and a deodorizer, see column 3, lines 56-67. With respect to claim 4, to use the baking soda and deodorizer of Kiebke with the particle entrapment pad of Brazzell would have been obvious to one skilled in the art in order to control any odors which might develop from the particles trapped within the pad.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brazzell in view of Goss et al (6,039,004). Brazzell does not disclose the use of an anti-microbial agent. Goss et al teach the use of an anti-microbial agent with the animal litter. With respect to claim 5, to use the anti-microbial agent of Goss et al with the particle entrapment pad of Brazzell would have been obvious to one skilled in the art in order to provide a more sanitary area for the animal and more sanitary clean up for the owner.

***Allowable Subject Matter***

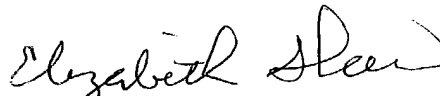
Claims 36-48 are allowed.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Shaw whose telephone number is 703-308-1853. The examiner can normally be reached on M-Th 9:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone can be reached on 703-306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Elizabeth A. Shaw  
Examiner  
Art Unit 3644

July 8, 2004

  
MICHAEL J. CARONE  
SUPERVISORY PATENT EXAMINER